

Cause No. 2016-64847

KAVAC Holding Company, LLC., et al  
*Plaintiffs,*

v.

PAULL & PARTNERS, LLC, et al  
*Defendants*

IN THE DISTRICT COURT

OF HARRIS COUNTY, TEXAS

190th JUDICIAL DISTRICT

P4  
 TROY  
 Stbnx  
 Caso

TEMPORARY RESTRAINING ORDER

Plaintiffs Terry Fisher, 2020 McGowen, LLC, 2017 Yale Development, LLC, 829 Yale St. LLC, 832 Yale, L.L.C., 2017 Yale Development, LLC, filed a verified petition for a temporary injunction and, in connection therewith, has presented a request for a temporary restraining order, as set forth in *Plaintiffs' Verified Application for Temporary Restraining Order and Temporary Injunction* (the "Petition"). It clearly appears from the facts set forth in Plaintiffs' Petition that unless Defendants are immediately restrained from, Defendants will wrongfully foreclose on the Property at 2020 McGowan, 829 Yale and/or 832 Yale, Houston, Texas which is the subject of Plaintiffs' Petition and before notice can be given and a hearing is had on Plaintiffs' motion for a temporary injunction, and if the commission of these act(s) is not restrained immediately, Plaintiffs will suffer irreparable injury in the form of loss of real estate, for which the law presumes damages are inadequate or cannot be readily calculated.

Having considered Plaintiffs' petition and proof, and the arguments of counsel, the Court finds as follows:

- a. Plaintiffs are likely to succeed on the merits of this lawsuit because he has evidence to establish the elements of his causes of action of breach of contract, declaratory judgment action, and fraud, as set forth in the Petition. Furthermore, Plaintiffs are not required to show that he will prevail at trial, but

**Exhibit**

**1**

**REORDERER'S MEMORANDUM**  
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only put forth some evidence on his claims that tend to support his causes of action. Plaintiffs have carried that burden in this application for injunctive relief.

- b. Unless the Court immediately restrains Defendants Plaintiffs will suffer immediate and irreparable injury, for which there is no adequate remedy at law to give Plaintiffs complete, final and equal relief. More specifically:
- c. The harm to Plaintiffs is imminent because Defendants have claimed they will foreclose on the Property, Tuesday, February 6, 2018;
- d. This imminent harm will cause Plaintiffs irreparable injury in that Plaintiff will lose the right to own the real estate which is the subject of the Petition;
- e. There is no adequate remedy at law which will give Plaintiffs complete, final and equal relief because Plaintiffs' damages cannot easily be calculated.

The Court further finds that ~~an ex parte hearing is proper as there is insufficient time for hearing~~ *would and could appear for Defendants and a hearing would be held.* on this application for injunctive relief because Defendants have posted the Property for imminent foreclosure. *All parties present through counsel.*

Plaintiffs met their burden by establishing such element which must be present before injunctive relief can be granted by this court, therefore Plaintiffs are entitled to the requested temporary restraining order. It is essential that the Court immediately and temporarily restrain Defendant, prior to giving notice to Defendants and a hearing on the matter, to prevent a wrongful foreclosure of the subject real property.

The Court accordingly orders as follows:

Defendants and their respective agents, employees, officers or anyone acting on his behalf, are hereby enjoined and restrained from:

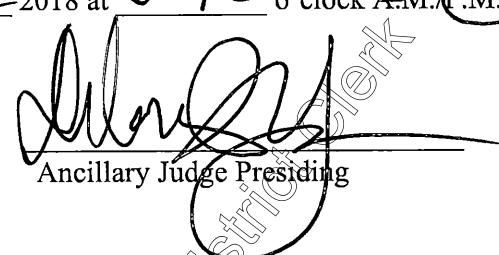
- A. Conducting a foreclosure sale with respect to the subject Property on Tuesday, February 6, 2018 , under any circumstances;
- B. Conducting a foreclosure sale with respect to Property identified in PLAINTIFFS' FOURTH AMENDED PETITION, REQUEST FOR DISCLOSURE APPLICATION FOR TEMPORARY RESTRAINING ORDER, AND REQUESTS FOR TEMPORARY AND PERMANENT INJUNCTIVE RELIEF (the "Property");
- C. Conducting a foreclosure sale with respect to the Property on Tuesday, February 6, 2018 , under any circumstances;
- D. Conducting a foreclosure sale with respect to the real property located at 2020 McGowan, Houston, Texas;
- E. Conducting a foreclosure sale with respect to the real property located at 832 Yale, Houston, Texas;
- F. Conducting a foreclosure sale with respect to the real property located at 829 Yale, Houston, Texas;
- G. Conducting any foreclosure on assets owned by 2020 McGowen, LLC, 829 Yale St. LLC, 832 Yale, L.L.C., or 2017 Yale Development, LLC;
- H. Accepting any bids at any foreclosure sale related to the Property;
- I. Taking any actions pursuant to any notice of substitute trustee's sale related to the Property; and
- J. Re-posting the Property for foreclosure based on any alleged default prior to February 6, 2018.

IS FURTHER ORDERED that Plaintiffs' petition for temporary injunction be heard before the Honorable Judge of the 190<sup>th</sup> Judicial District Court, on February 15<sup>th</sup>, 2018, at 10:00 A.M., in the courtroom of the 190<sup>th</sup> Judicial District Court in the Harris County Civil Courthouse,

2. The clerk of the above-entitled Court shall forthwith, on the filing by Plaintiffs of the bond hereinafter required, and on approving the same according to the law, issue a temporary restraining order in conformity with the law and the terms of this order.

This order shall not be effective unless and until Plaintiff(S) executes and files with the clerk a bond, in conformity with the law, in the amount of Two Thousand Dollars, 100 dollars (\$ 2000.00).

Signed on this 1 day of February 2018 at 3:45 o'clock A.M./P.M.

  
Ancillary Judge Presiding

Unofficial Copy Office of Chris Daniel District Clerk